

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>In re Application of:</b>	Robert A. Luciano, Jr. <i>et al.</i>	<b>Examiner:</b>	Flores Sanchez, Omar
<b>Application No.:</b>	09/419,748	<b>Group Art Unit:</b>	3724
<b>Filing Date:</b>	October 16, 1999	<b>Confirmation No.</b>	1734
		<b>Docket No.</b>	10407-1031
<b>Title:</b>	PRINTER TEAR BAR AND PRESENTER SYSTEM	<b>Customer No.</b>	30076

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**  
**PURSUANT TO 37 CFR §1.181**

Applicants hereby petition for the withdrawal of the Examiner's holding of abandonment for failure to respond to an Office Action mailed on February 13, 2002.

From review of the record, on February 13, 2002, the Examiner mailed an office action to the Applicants' representative, Ian Burns and Associates. On August 13, 2002, the Applicants' representative submitted a response to the office action via facsimile with a three-month extension of time. The facsimile was successfully transmitted on August 13, 2002. A copy of the facsimile transmission report showing that a 14-page facsimile was sent to (703) 746-3290 is included with this petition and is marked as **EXHIBIT 1**. Additionally, a copy of the 14-page facsimile is included as **EXHIBIT 2**. However, Examiner Flores-Sanchez apparently did not receive the response to the office action.

On August 11, 2004, Applicants' representative re-sent the response to the office action to Mr. Steve Marcus pursuant to instructions from Examiner Flores-Sanchez. A copy of the transmission report showing that the second facsimile was successfully sent to Mr. Marcus of U.S. Patent and Trademark Office is attached as **EXHIBIT 3**. The facsimile transmission to Mr. Marcus is included in this petition as **EXHIBIT 4**.

The prosecution of this application was transferred to the firm of Brown, Raysman, Millstein, Felder, and Steiner LLP. A revocation of Power of Attorney with a new Power of Attorney was sent to the U.S. Patent Office on October 21, 2005. On Sunday, May 14, 2006, Examiner Flores-Sanchez left a telephonic message for the undersigned at 2:22 p.m. PST checking the status of the case. In the Examiner's message, Examiner Flores-Sanchez stated that no official response has been received to date. Applicants' representative left a telephonic message for the Examiner on May 15, 2006. On May 18, 2006, a notice of abandonment was sent to the Applicants' representative. After reviewing the file history, the Applicants' representative is submitting this petition requesting the holding of abandonment be withdrawn. Based upon the facts available to the Applicants' representative, and pursuant to 37 CFR 1.8(b)(3), Applicants' representative respectfully submits that a timely response to the Office Action of February 13, 2002 was transmitted to the U.S. Patent and Trademark Office on August 13, 2002. Furthermore, a subsequent re-transmission of the response of August 13, 2002 was sent via facsimile to the U.S. Patent Office on August 11, 2004.

Accordingly, Applicants' representative respectfully submits that the response was timely filed and was not entered due to Patent Office error. Thus, the Applicants' representative respectfully requests the withdrawal of the holding of abandonment pursuant to 37 CFR 1.181. Furthermore, Applicants' representative submit that this petition is timely filed pursuant to 37 CFR 1.181(f) since this petition is filed within two months of the mail date, May 18, 2006, of the notice of abandonment.

No fee is believed to be due with this paper. However, if Applicants are mistaken, the Commissioner is hereby authorized to charge any additional required fees from Deposit Account No. 502811, Deposit Account Name BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP.

Should the Petitions Examiner have any questions concerning the foregoing, the Petitions Examiner is invited to telephone the undersigned attorney at (310) 712-8300. The undersigned

attorney can normally be reached Monday through Friday from about 10:00 AM to 6:00 PM  
Pacific Time.

Respectfully submitted,

Date: June 5, 2006

  
Andrew B. Chen  
Reg. No. 48,508  
BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP  
1880 Century Park East, 12th Floor  
Los Angeles, CA 90067-1621  
(310) 712-8300 telephone  
(310) 712-8383 facsimile

Attachments: Exhibit 1 ( 1 sheet)  
Exhibit 2 (14 sheets)  
Exhibit 3 ( 1 sheet)  
Exhibit 4 (16 sheets)

# EXHIBIT 1

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	2670
CONNECTION TEL	17037463290P732
SUBADDRESS	
CONNECTION ID	
ST. TIME	08/13 17:00
USAGE T	04'58
PGS. SENT	14
RESULT	OK

# EXHIBIT 2

**IAN F. BURNS & ASSOCIATES, P.C.**  
*Intellectual Property Law*

Ian F. Burns<sup>†</sup>  
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Rolando J. Tong<sup>§</sup>

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<sup>†</sup>Admitted in U.S. Patent and Trademark Office  
<sup>‡</sup>Admitted in California, Hawaii & Nevada  
<sup>§</sup>Admitted in Illinois and Nevada  
<sup>§</sup>Admitted in California

August 12, 2002

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If there is a problem with transmission or if all pages are not received, please call (775) 826-6160 for retransmission.

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**TO: Omar Flores-Sanchez**

**FAX #: (703) 746-3290**

COMPANY: Patent and Trademark Office

FROM: Rolando J. Tong

RE: Serial Number: 09/419,478  
Filing Date: October 16, 1999

OUR REFERENCE: 732.341 SDG.UA-Printer Tear Bar System

Number of pages including this cover page: 15

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Dear Sir:

The following is/are submitted to the Patent and Trademark Office for appropriate action:

1. An Amendment E (7 pages).
2. A Version With Markings Showing Changes Made (3 pages).
3. A Petition for Extension of Time (1 page).
4. A Fee Transmittal (1 page).
5. A Transmittal Letter (1 page).

Cordially yours,

*R Tong*  
Rolando J. Tong  
Registration Number: 47,140

# IAN F. BURNS & ASSOCIATES, P.C.

Intellectual Property Law

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Rolando J. Tong\*§

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\*Admitted in U.S. Patent and Trademark Office  
†Admitted in California, Hawaii & Nevada  
‡Admitted in Illinois and Nevada  
§Admitted in California

August 12, 2002

Box Amendment FEE  
Assistant Commissioner for Patents  
Washington, DC 20231

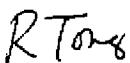
*In re application of: Robert A. Luciano and Raymond Bryan  
Serial number: 09/419,748  
Filed: October 16, 1999  
Title: PRINTER TEAR BAR AND PRESENTER SYSTEM  
Attorney docket number: 732.341 SDG.UA-Printer Tear Bar System*

Dear Sir:

The following is/are submitted to the Patent and Trademark Office for appropriate action:

1. An Amendment E (7 pages).
2. A Version with Markings Showing Changes Made (3 pages).
3. A Petition for Three Months Extension of Time (1 page).
4. A Fee Transmittal (1 page).
5. A Facsimile Cover letter (1 page).

Cordially yours,



Rolando J. Tong  
Registration Number: 47,140

---

#### CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

##### MAILING

Deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.



**FACSIMILE**  
Transmitted by facsimile to the Patent and Trademark Office.

Fax No.: 703 - 746 - 3290



Signature

Kimberly Reich  
Name 8-13-02  
Date

In re application of: Robert A. Luciano and Raymond Bryan  
Serial number: 09/419,748  
Page 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Robert A. Luciano and Raymond Bryan  
5 Serial number: 09/419,748  
Filed: October 16, 1999  
Title: PRINTER TEAR BAR AND PRESENTER SYSTEM  
Attorney docket number: 732.341 SDG.UA-Printer Tear Bar System

10 Group Number: 3724  
Examiner: Flores-Sanchez, Omar

**Assistant Commissioner for Patents  
Washington, D.C. 20231**

15

**AMENDMENT E**

In response to the office action mailed on February 13, 2002, Applicants submit this  
Amendment E.

20

**In the claims**

Please amend claims 1, 20, and 25 as follows:

1. A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

25 (A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;  
and

(B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

5 wherein the tear bar is formed from an integrally formed member having a substantially semi-circular lateral cross-section, the integrally formed member further having a center portion between the first side portion and the second side portion, the center portion having a diameter less than the first side portion and the second side portion, and wherein at least one of the first or second side portions comprises a roughened surface.

10

20. A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

(A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

15 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media and

(C) a center portion between the first side portion and the second portion, the center portion having a diameter less than the first side portion and the second side portion,

In re application of: Robert A. Luciano and Raymond Bryan

Serial number: 09/419,748

Page 3

wherein the tear bar remains in a fixed position during feeding and separation of the strip of media, wherein at least one of the first or second side portions comprises a roughened surface.

5 25. A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

- (A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;
- 10 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and
- (C) a center portion between the first and second side portions, the center portion having a diameter less than the diameter of the first side portion and the diameter of the second side portion, the center portion being adapted to abut the surface of the strip of media when a longitudinal force is applied to the strip of media.

#### REMARKS

#### **Office Action**

20 Claims 1, 5-7, and 19-29 are pending in the application. Claims 1, 5-7, and 19-29 are rejected under 35 U.S.C. §102(b) as being anticipated by Michalovic. Claims 2-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Michalovic in view of Ishii et al. et al.

**Interview**

Applicants sincerely appreciate the courtesies extended by Examiner Omar Flores-Sanchez during a telephone interview conducted on July 12, 2002. During the interview,  
5 Examiner Sanchez indicated that he has reviewed, with his Primary, Applicants' proposed amendment sent by facsimile on July 1, 2002 and that the claim amendments appear to advance the application for allowance.

**Amendment**

10 By this Amendment E, independent claims 1, 20, and 25 have been amended to include a tear bar comprising a center portion having a diameter less than the first and second side portion. Applicants submit that claims 1, 20, and 25 are not anticipated by Michalovic.

As stated by the Federal Circuit: Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the  
15 claim. *Lindermann Maschinensfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984).

Applicants submit that Michalovic does not disclose a center portion having a diameter less than the first and second side portion. Thus, Michalovic does not disclose each and every element of the claimed invention. Withdrawal of 35 U.S.C. §102(b) rejection over independent  
20 claims 1, 20, and 25 and their respective dependent claims- 5-7, 19, 21-24, and 26-29 is respectfully requested.

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With regard to claims 2 and 3, the applicants respectfully submit that claims 2 and 3 are patentable over Michalovic in view of Ishii et al. for the following reasons.

**The cited references, even when improperly combined, do not teach or suggest all the claim limitations.**

5

10

MPEP §2143 states that the prior art reference or references when combined must also teach or suggest all the claim limitations. See also *In re Royka*, 490 F.2d 981. Notwithstanding the Applicants' arguments against improper combination of references, Applicants submit that even if the cited references were combined, the cited references do not teach or suggest all the claim limitations.

15

20

As already discussed under the applicants' arguments relating to 35 U.S.C. §102 rejection, Michalovic does not disclose, teach, or suggest a center portion having a diameter less than the first and second side portion. *See also* Figure 2 of Michalovic. With regard to Ishii et al., the reference discloses a cutting roller having an axle and a surface having three edges surrounding the length of the axle. Two edges are positioned on the sides and have a smaller diameter than an edge positioned in the center.

In sum, the Office has not presented a combination of references that disclose each and every element of claims 2 and 3, as required by a large body of law. Withdrawal of the 35 USC 103(a) rejections on claims 2 and 3 is respectfully requested.

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Serial number: 09/419,748

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**The combination of Michalovic and Ishii et al. is improper.**

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. MPEP §2143,

5 See also *In re Rouffet*, 149 F.3d 1350, 1357. The applicant submits that the Office has not established a *prima facie* case of obviousness because there is no suggestion or motivation to combine Michalovic and Ishii et al. as discussed below.

**Michalovic teaches using a tear surface having a uniform diameter, whereas Ishii et al.**

10 **teaches using a tear surface having varying diameters.**

Michalovic is an apparatus for dispensing linerless labels with adhesives. As such, Michalovic states that sticking of labels to dispensing apparatus components is a significant problem. See column 1, lines 28-34. If the dispensing apparatus has a tear surface of varying diameter, the labels have more tendency to stick to the uneven tear surface than a dispensing apparatus with uniform tear surface, making it difficult and expensive to dispense labels.

Additionally, Michalovic states “where blades or like components are used as a force concentrating structure to facilitate tearing of labels along the perforation lines, the concentrating structures must be cleaned often to prevent build up of adhesive.” Column 1, lines 33-37.

20 In contrast, Ishii et al. provides an apparatus for issuing a ticket with a cutting roller that creates diamond-shaped openings in the center of the perforations on media. The diamond-shaped openings are specifically created by a plurality of edges having variable diameters on the axle of the roller. The diamond-shaped openings allow tickets to be cut clearly without leaving

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Serial number: 09/419,748

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any scraps, which may cause apparatus jam and may cause a customer to question the authenticity of a ticket. The objects of Ishii et al.'s invention are to prevent apparatus from jamming and to provide a high quality ticket cut with precision from a ticket sheet. See column 2, lines 4-9.

5        In sum, there is no suggestion or motivation, either in Ishii et al. or in Michalovic or in the knowledge generally available to one of ordinary skill in the art to modify or to combine reference teachings of Ishii et al. and Michalovic. Withdrawal of 35 U.S.C. 103(a) rejections based on the combination of Ishii et al. and Michalovic is respectfully requested.

The amendments to the claims above have not been made to overcome the rejections.

10      The applicant believes that the original claims are patentable over the cited reference. The applicant makes amendments to obtain allowance of the application, considering the length of time the prosecution of this application has already taken.

## CONCLUSION

15      For all of the above reasons, the applicant submits that the present application is in condition for allowance. If the examiner has any questions regarding the application or this response, the examiner is encouraged to call the applicant's attorney, Rolando J. Tong, at (775) 826-6160.

Respectfully submitted,

20  
  
\_\_\_\_\_  
Rolando J. Tong, Attorney for Applicant(s)  
Registration Number: 47,140

25

## **VERSION WITH MARKINGS SHOWING CHANGES MADE**

1. (Thrice Amended) A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

5 (A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and

10 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

wherein the tear bar is formed from an integrally formed member having a substantially semi-circular lateral cross-section, the integrally formed member further having a center portion between the first side portion and the second side portion, the center portion having a diameter less than the first side portion and the second side portion, and wherein at least one of the first or second side portions comprises a roughened surface.

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))**

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

□ Deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

**FACSIMILE**  
Transmitted by facsimile to the Patent and Trademark  
Office

Fax No.: 703-746-3290

Office.  
Fax No.: 703 -  
  
Signature  
Kimberley Reich  
Name Date  
8-13-02

20. (Twice Amended) A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

5 (A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; [and]

10 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and

15 (C) a center portion between the first side portion and the second portion, the center portion having a diameter less than the first side portion and the second side portion,

wherein the tear bar remains in a fixed position during feeding and separation of the strip of media, wherein at least one of the first or second side portions comprises a roughened surface.

25. (Once amended) A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

(A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

- (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and
- 5 (C) a center portion between the first and second side portions, the center portion having a diameter less than the diameter of the first side portion and the diameter of the second side portion, the center portion being adapted to abut the surface of the strip of media when a longitudinal force is applied to the strip of media.

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# FEE TRANSMITTAL

## for FY 2000

Patent fees are subject to annual revision.

Small Entity payments **must** be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12. See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$)

460.00

## Complete if Known

Application Number	09/419,748
Filing Date	October 16, 1999
First Named Inventor	Robert A. Luciano
Examiner Name	Flores-Sanches
Group / Art Unit	3724
Attorney Docket No.	732.341 SDG

## METHOD OF PAYMENT (check one)

1.  The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 500913

Deposit Account Name Ian F. Burns &amp; Associates, P.C.

Charge Any Additional Fee Required  
Under 37 CFR §§ 1.16 and 1.17

2.  Payment Enclosed:

Check  Money  
Order  Other

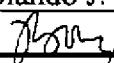
## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105	130	205 65 Surcharge - late filing fee or oath	0.00
127	50	227 25 Surcharge - late provisional filing fee or cover sheet	
139	130	139 130 Non-English specification	0.00
147	2,520	147 2,520 For filing a request for reexamination	0.00
112	920*	112 920* Requesting publication of SIR prior to Examiner action	0.00
113	1,840*	113 1,840* Requesting publication of SIR after Examiner action	0.00
115	110	215 55 Extension for reply within first month	.00
116	380	216 190 Extension for reply within second month	0.00
117	870	217 435 Extension for reply within third month	460.00
118	1,360	218 680 Extension for reply within fourth month	0.00
128	1,850	228 925 Extension for reply within fifth month	0.00
119	300	219 150 Notice of Appeal	0.00
120	300	220 150 Filing a brief in support of an appeal	0.00
121	260	221 130 Request for oral hearing	0.00
138	1,510	138 1,510 Petition to institute a public use proceeding	0.00
140	110	240 55 Petition to revive - unavoidable	0.00
141	1,210	241 805 Petition to revive - unintentional	0.00
142	1,210	242 605 Utility issue fee (or reissue)	
143	430	243 215 Design issue fee	
144	580	244 290 Plant issue fee	
122	130	122 130 Petitions to the Commissioner	0.00
123	50	123 50 Petitions related to provisional applications	
126	240	126 240 Submission of Information Disclosure Stmt	0.00
581	40	581 40 Recording each patent assignment per property (times number of properties)	0.00
146	690	248 345 Filing a submission after final rejection (37 CFR § 1.129(a))	0.00
149	690	249 345 For each additional invention to be examined (37 CFR § 1.129(b))	0.00
Other fee (specify)			0.00
Other fee (specify)			0.00
SUBTOTAL (2) (\$)	0.00	SUBTOTAL (3) (\$)	460.00

\* Reduced by Basic Filing Fee Paid

## SUBMITTED BY

Name (Print/Type)	Rolando J. Tong	Registration No. (Attorney/Agent)	47,140	Telephone	775-826-6160
Signature				Date	8/13/02

## WARNING:

Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

## PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional)  
732.400 SDG

In re Application of Robert A. Luciano and Raymond Bryan

Application Number  
09/419,748 Filed  
October 16, 1999

For PRINTER TEAR BAR AND PRESENTER SYSTEM

Group Art Unit  
3724 Examiner  
Flores-Sanches

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ _____
<input type="checkbox"/>	Two months (37 CFR 1.17(a)(2))	\$ _____
<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$ 920
<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$ _____
<input type="checkbox"/>	Five months (37 CFR 1.17(a)(5))	\$ _____

Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resuming fee is: \$ 460

A small entity statement under 37 CFR 1.27:

is enclosed.

has already been filed in this application.

A check in the amount of the fee is enclosed.

The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 500913. I have enclosed a duplicate copy of this sheet.

I am the  assignee of record of the entire interest.

applicant.

attorney or agent of record.

attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a). \_\_\_\_\_

8/13/02

Date

RJ Tong

Signature

Rolando J. Tong

Typed or printed name

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

# EXHIBIT 3

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	4211
CONNECTION TEL	17033053762p732
SUBADDRESS	
CONNECTION ID	TC3700 DIRECTOR'
ST. TIME	08/11 12:12
USAGE T	03 '14
PGS. SENT	16
RESULT	OK

# EXHIBIT 4

**IAN F. BURNS & ASSOCIATES, P.C.**  
*Intellectual Property Law*

Ian F. Burns \*<sup>†</sup>  
John D. Long \*<sup>‡</sup>  
Thomas J. Howell, Ph.D.<sup>\*</sup>  
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†Admitted in California, Hawaii & Nevada  
‡Admitted in California, Illinois, Massachusetts  
& Washington, D.C.

August 10, 2004

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**TO: Steve Marcus**

**FAX #: (703) 305-3762**

COMPANY: United States Patent and Trademark Office

FROM: Ian F. Burns

RE: Amendment E

OUR REFERENCE: 732.341 SDG-UA-Printer Tear Bar System

Number of pages including this cover page: 16

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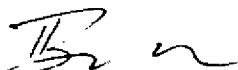
Dear Sir:

As instructed by Examiner Flores-Sanchez, the following is a copy of the original response submitted by facsimile on August 13, 2002. Also attached is a copy of the transmission report showing the fax was successfully transmitted to 703-746-3290.

The Following is/are submitted to the Patent and Trademark Office for appropriate action:

1. A copy of the Facsimile Cover Sheet (1 page).
2. A copy of the Version With Markings Showing Changes Made (3 pages).
3. A copy of the Petition for Extension of Time (1 page).
4. A copy of the Fee Transmittal (1 page).
5. A copy of the Transmittal Letter (1 page).
6. A copy of the Facsimile Confirmation sheet (1 page)

Cordially yours,



Ian F. Burns

Registration Number: 33,297

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

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PGS. SENT	14
RESULT	OK

# IAN F. BURNS & ASSOCIATES, P.C.

*Intellectual Property Law*

Ian F. Burns\*<sup>†</sup>  
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\*Admitted in California

August 12, 2002

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**TO: Omar Flores-Sanchez**

**FAX #: (703) 746-3290**

COMPANY: Patent and Trademark Office

FROM: Rolando J. Tong

RE: Serial Number: 09/419,478  
Filing Date: October 16, 1999

OUR REFERENCE: 732.341 SDG.UA-Printer Tear Bar System

Number of pages including this cover page: 13

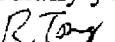
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Dear Sir:

The following is/are submitted to the Patent and Trademark Office for appropriate action:

1. An Amendment E (7 pages).
2. A Version With Markings Showing Changes Made (3 pages).
3. A Petition for Extension of Time (1 page).
4. A Fee Transmittal (1 page).
5. A Transmittal Letter (1 page).

Cordially yours,

  
Rolando J. Tong  
Registration Number: 47,140

# IAN I BURNS & ASSOCIATES, P.C.

Intellectual Property Law

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\*Admitted in U.S. Patent and Trademark Office  
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August 12, 2002

Box Amendment FEE  
Assistant Commissioner for Patents  
Washington, DC 20231

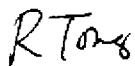
*In re application of: Robert A. Luciano and Raymond Bryan  
Serial number: 09/419,748  
Filed: October 16, 1999  
Title: PRINTER TEAR BAR AND PRESENTER SYSTEM  
Attorney docket number: 732.341 SDG.UA-Printer Tear Bar System*

Dear Sir:

The following is/are submitted to the Patent and Trademark Office for appropriate action:

1. An Amendment E (7 pages).
2. A Version with Markings Showing Changes Made (3 pages).
3. A Petition for Three Months Extension of Time (1 page).
4. A Fee Transmittal (1 page).
5. A Facsimile Cover letter (1 page).

Cordially yours,



Rolando J. Tong  
Registration Number: 47,140

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#### CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

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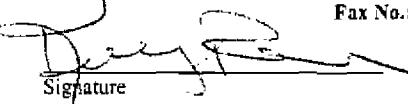
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Fax No.: 703-746-3290



Signature

Kimberly Reiter S-12-02  
Name Date

In re application of: Robert A. Luciano and Raymond Bryan  
Serial number: 09/419,748  
Page 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Robert A. Luciano and Raymond Bryan  
5 Serial number: 09/419,748  
Filed: October 16, 1999  
Title: PRINTER TEAR BAR AND PRESENTER SYSTEM  
Attorney docket number: 732.341 SDG.UA-Printer Tear Bar System

10 Group Number: 3724  
Examiner: Flores-Sanchez, Omar

**Assistant Commissioner for Patents  
Washington, D.C. 20231**

15

**AMENDMENT E**

In response to the office action mailed on February 13, 2002, Applicants submit this  
Amendment E.

20

**In the claims**

Please amend claims 1, 20, and 25 as follows:

1. A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

25 (A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;  
and

(B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

5 wherein the tear bar is formed from an integrally formed member having a substantially semi-circular lateral cross-section, the integrally formed member further having a center portion between the first side portion and the second side portion, the center portion having a diameter less than the first side portion and the second side portion, and wherein at least one of the first or second side portions comprises a roughened surface.

10

20. A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

(A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

15 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media and;

(C) a center portion between the first side portion and the second portion, the center portion having a diameter less than the first side portion and the second side portion,

In re application of: Robert A. Luciano and Raymond Bryan

Serial number: 09/419,748

Page 3

wherein the tear bar remains in a fixed position during feeding and separation of the strip of media, wherein at least one of the first or second side portions comprises a roughened surface.

5 25. A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

(A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

10 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and

(C) a center portion between the first and second side portions, the center portion having a diameter less than the diameter of the first side portion and the diameter of the second side portion, the center portion being adapted to abut the surface of the strip of media when a longitudinal force is applied to the strip of media.

**REMARKS**

**Office Action**

20 Claims 1, 5-7, and 19-29 are pending in the application. Claims 1, 5-7, and 19-29 are rejected under 35 U.S.C. §102(b) as being anticipated by Michalovic. Claims 2-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Michalovic in view of Ishii et al. et al.

**Interview**

Applicants sincerely appreciate the courtesies extended by Examiner Omar Flores-Sanchez during a telephone interview conducted on July 12, 2002. During the interview, 5 Examiner Sanchez indicated that he has reviewed, with his Primary, Applicants' proposed amendment sent by facsimile on July 1, 2002 and that the claim amendments appear to advance the application for allowance.

**Amendment**

10 By this Amendment E, independent claims 1, 20, and 25 have been amended to include a tear bar comprising a center portion having a diameter less than the first and second side portion. Applicants submit that claims 1, 20, and 25 are not anticipated by Michalovic.

As stated by the Federal Circuit: Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the 15 claim. *Lindermann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984).

Applicants submit that Michalovic does not disclose a center portion having a diameter less than the first and second side portion. Thus, Michalovic does not disclose each and every element of the claimed invention. Withdrawal of 35 U.S.C. §102(b) rejection over independent 20 claims 1, 20, and 25 and their respective dependent claims- 5-7, 19, 21-24, and 26-29 is respectfully requested.

In re application of: Robert A. Luciano and Raymond Bryan

Serial number: 09/419,748

Page 5

With regard to claims 2 and 3, the applicants respectfully submit that claims 2 and 3 are patentable over Michalovic in view of Ishii et al. for the following reasons.

**The cited references, even when improperly combined, do not teach or suggest all the claim**

**5 limitations.**

MPEP §2143 states that the prior art reference or references when combined must also teach or suggest all the claim limitations. See also *In re Royka*, 490 F.2d 981. Notwithstanding the Applicants' arguments against improper combination of references, Applicants submit that even if the cited references were combined, the cited references do not teach or suggest all the

10 claim limitations.

As already discussed under the applicants' arguments relating to 35 U.S.C. §102 rejection, Michalovic does not disclose, teach, or suggest a center portion having a diameter less than the first and second side portion. *See also* Figure 2 of Michalovic. With regard to Ishii et al., the reference discloses a cutting roller having an axle and a surface having three edges surrounding the length of the axle. Two edges are positioned on the sides and have a smaller diameter than an edge positioned in the center.

In sum, the Office has not presented a combination of references that disclose each and every element of claims 2 and 3, as required by a large body of law. Withdrawal of the 35 USC 103(a) rejections on claims 2 and 3 is respectfully requested.

In re application of: Robert A. Luciano and Raymond Bryan

Serial number: 09/419,748

Page 6

**The combination of Michalovic and Ishii et al. is improper.**

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. MPEP §2143,

5 See also *In re Rouffet*, 149 F.3d 1350, 1357. The applicant submits that the Office has not established a *prima facie* case of obviousness because there is no suggestion or motivation to combine Michalovic and Ishii et al. as discussed below.

**Michalovic teaches using a tear surface having a uniform diameter, whereas Ishii et al.**

10 **teaches using a tear surface having varying diameters.**

Michalovic is an apparatus for dispensing linerless labels with adhesives. As such, Michalovic states that sticking of labels to dispensing apparatus components is a significant problem. See column 1, lines 28-34. If the dispensing apparatus has a tear surface of varying diameter, the labels have more tendency to stick to the uneven tear surface than a dispensing apparatus with uniform tear surface, making it difficult and expensive to dispense labels.

Additionally, Michalovic states “where blades or like components are used as a force concentrating structure to facilitate tearing of labels along the perforation lines, the concentrating structures must be cleaned often to prevent build up of adhesive.” Column 1, lines 33-37.

20 In contrast, Ishii et al. provides an apparatus for issuing a ticket with a cutting roller that creates diamond-shaped openings in the center of the perforations on media. The diamond-shaped openings are specifically created by a plurality of edges having variable diameters on the axle of the roller. The diamond-shaped openings allow tickets to be cut clearly without leaving

In re application of: Robert A. Luciano and Raymond Bryan

Serial number: 09/419,748

Page 7

any scraps, which may cause apparatus jam and may cause a customer to question the authenticity of a ticket. The objects of Ishii et al.'s invention are to prevent apparatus from jamming and to provide a high quality ticket cut with precision from a ticket sheet. See column 2, lines 4-9.

5        In sum, there is no suggestion or motivation, either in Ishii et al. or in Michalovic or in the knowledge generally available to one of ordinary skill in the art to modify or to combine reference teachings of Ishii et al. and Michalovic. Withdrawal of 35 U.S.C. 103(a) rejections based on the combination of Ishii et al. and Michalovic is respectfully requested.

The amendments to the claims above have not been made to overcome the rejections.

10      The applicant believes that the original claims are patentable over the cited reference. The applicant makes amendments to obtain allowance of the application, considering the length of time the prosecution of this application has already taken.

## CONCLUSION

15      For all of the above reasons, the applicant submits that the present application is in condition for allowance. If the examiner has any questions regarding the application or this response, the examiner is encouraged to call the applicant's attorney, Rolando J. Tong, at (775) 826-6160.

20      Respectfully submitted,



25      

---

 Rolando J. Tong, Attorney for Applicant(s)  
Registration Number: 47,140

## VERSION WITH MARKINGS SHOWING CHANGES MADE

1. (Thrice Amended) A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

5 (A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and

10 (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

wherein the tear bar is formed from an integrally formed member having a substantially semi-circular lateral cross-section, the integrally formed member further having a center portion between the first side portion and the second side portion, the center portion having a diameter less than the first side portion and the second side portion, and wherein at least one of the first or second side portions comprises a roughened surface.

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))**

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Commissioner for Patents, **Fax No.: 703 -**  
*Dee R.*  
Signature  
Katherine Keill  
Name **8-13-02**  
Date

20. (Twice Amended) A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

(A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;  
5 [and]

(B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and  
10

(C) a center portion between the first side portion and the second portion, the center portion having a diameter less than the first side portion and the second side portion,

15 wherein the tear bar remains in a fixed position during feeding and separation of the strip of media, wherein at least one of the first or second side portions comprises a roughened surface.

25. (Once amended) A tear bar for assisting the separation of a piece of media from a strip of media, the strip of media having a surface, a first and second side, and a center portion, the tear bar comprising:

(A) a first side portion, the first side portion being adapted to abut the surface of the strip of media adjacent to the first side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media;

5

- (B) a second side portion, the second side portion being adapted to abut the surface of the strip of media adjacent to the second side of the strip of media and apply resistance on the strip of media when a longitudinal force is applied to the strip of media; and
- (C) a center portion between the first and second side portions, the center portion having a diameter less than the diameter of the first side portion and the diameter of the second side portion, the center portion being adapted to abut the surface of the strip of media when a longitudinal force is applied to the strip of media.

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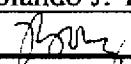
Small Entity payments *must* be supported by a small entity statement, otherwise large entity fees *must* be paid. See Forms PTO/SB/09-12. See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$)

460.00

		Complete if Known			
Application Number		09/419,748			
Filing Date		October 16, 1999			
First Named Inventor		Robert A. Luciano			
Examiner Name		Flores-Sanches			
Group / Art Unit		3724			
Attorney Docket No.		732.341 SDG			

METHOD OF PAYMENT (check one)		FEE CALCULATION (continued)																																																																																																																																											
1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:		<b>3. ADDITIONAL FEES</b> <table border="1"> <thead> <tr> <th>Large Entity Fee Code (\$)</th> <th>Small Entity Fee Code (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205 65 Surcharge - late filing fee or oath</td><td>0.00</td></tr> <tr><td>127</td><td>50</td><td>227 25 Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>139</td><td>130</td><td>139 130 Non-English specification</td><td>0.00</td></tr> <tr><td>147</td><td>2,520</td><td>147 2,520 For filing a request for reexamination</td><td>0.00</td></tr> <tr><td>112</td><td>920*</td><td>112 920* Requesting publication of SIR prior to Examiner action</td><td>0.00</td></tr> <tr><td>113</td><td>1,840*</td><td>113 1,840* Requesting publication of SIR after Examiner action</td><td>0.00</td></tr> <tr><td>115</td><td>110</td><td>215 55 Extension for reply within first month</td><td>.00</td></tr> <tr><td>116</td><td>380</td><td>216 190 Extension for reply within second month</td><td>0.00</td></tr> <tr><td>117</td><td>870</td><td>217 435 Extension for reply within third month</td><td>460.00</td></tr> <tr><td>118</td><td>1,380</td><td>218 680 Extension for reply within fourth month</td><td>0.00</td></tr> <tr><td>128</td><td>1,850</td><td>228 925 Extension for reply within fifth month</td><td>0.00</td></tr> <tr><td>119</td><td>300</td><td>219 150 Notice of Appeal</td><td>0.00</td></tr> <tr><td>120</td><td>300</td><td>220 150 Filing a brief in support of an appeal</td><td>0.00</td></tr> <tr><td>121</td><td>260</td><td>221 130 Request for oral hearing</td><td>0.00</td></tr> <tr><td>138</td><td>1,510</td><td>138 1,510 Petition to institute a public use proceeding</td><td>0.00</td></tr> <tr><td>140</td><td>110</td><td>240 55 Petition to revive - unavoidable</td><td>0.00</td></tr> <tr><td>141</td><td>1,210</td><td>241 805 Petition to revive - unintentional</td><td>0.00</td></tr> <tr><td>142</td><td>1,210</td><td>242 805 Utility issue fee (or reissue)</td><td></td></tr> <tr><td>143</td><td>430</td><td>243 215 Design issue fee</td><td></td></tr> <tr><td>144</td><td>580</td><td>244 290 Plant issue fee</td><td></td></tr> <tr><td>122</td><td>130</td><td>122 130 Petitions to the Commissioner</td><td>0.00</td></tr> <tr><td>123</td><td>50</td><td>123 50 Petitions related to provisional applications</td><td></td></tr> <tr><td>126</td><td>240</td><td>126 240 Submission of Information Disclosure Stmt</td><td>0.00</td></tr> <tr><td>581</td><td>40</td><td>581 40 Recording each patent assignment per property (times number of properties)</td><td>0.00</td></tr> <tr><td>146</td><td>690</td><td>248 345 Filing a submission after final rejection (37 CFR § 1.129(a))</td><td>0.00</td></tr> <tr><td>149</td><td>690</td><td>249 345 For each additional invention to be examined (37 CFR § 1.129(b))</td><td>0.00</td></tr> <tr><td colspan="4">Other fee (specify) _____</td><td>0.00</td></tr> <tr><td colspan="4">Other fee (specify) _____</td><td>0.00</td></tr> <tr> <td colspan="2">SUBTOTAL (1) (\$)</td> <td colspan="4">SUBTOTAL (3) (\$)</td> </tr> <tr> <td colspan="2"></td> <td colspan="4">460.00</td> </tr> <tr> <td colspan="6">Reduced by Basic Filing Fee Paid</td> </tr> </tbody> </table>				Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid	105	130	205 65 Surcharge - late filing fee or oath	0.00	127	50	227 25 Surcharge - late provisional filing fee or cover sheet		139	130	139 130 Non-English specification	0.00	147	2,520	147 2,520 For filing a request for reexamination	0.00	112	920*	112 920* Requesting publication of SIR prior to Examiner action	0.00	113	1,840*	113 1,840* Requesting publication of SIR after Examiner action	0.00	115	110	215 55 Extension for reply within first month	.00	116	380	216 190 Extension for reply within second month	0.00	117	870	217 435 Extension for reply within third month	460.00	118	1,380	218 680 Extension for reply within fourth month	0.00	128	1,850	228 925 Extension for reply within fifth month	0.00	119	300	219 150 Notice of Appeal	0.00	120	300	220 150 Filing a brief in support of an appeal	0.00	121	260	221 130 Request for oral hearing	0.00	138	1,510	138 1,510 Petition to institute a public use proceeding	0.00	140	110	240 55 Petition to revive - unavoidable	0.00	141	1,210	241 805 Petition to revive - unintentional	0.00	142	1,210	242 805 Utility issue fee (or reissue)		143	430	243 215 Design issue fee		144	580	244 290 Plant issue fee		122	130	122 130 Petitions to the Commissioner	0.00	123	50	123 50 Petitions related to provisional applications		126	240	126 240 Submission of Information Disclosure Stmt	0.00	581	40	581 40 Recording each patent assignment per property (times number of properties)	0.00	146	690	248 345 Filing a submission after final rejection (37 CFR § 1.129(a))	0.00	149	690	249 345 For each additional invention to be examined (37 CFR § 1.129(b))	0.00	Other fee (specify) _____				0.00	Other fee (specify) _____				0.00	SUBTOTAL (1) (\$)		SUBTOTAL (3) (\$)						460.00				Reduced by Basic Filing Fee Paid					
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116	380	216 190 Extension for reply within second month	0.00																																																																																																																																										
117	870	217 435 Extension for reply within third month	460.00																																																																																																																																										
118	1,380	218 680 Extension for reply within fourth month	0.00																																																																																																																																										
128	1,850	228 925 Extension for reply within fifth month	0.00																																																																																																																																										
119	300	219 150 Notice of Appeal	0.00																																																																																																																																										
120	300	220 150 Filing a brief in support of an appeal	0.00																																																																																																																																										
121	260	221 130 Request for oral hearing	0.00																																																																																																																																										
138	1,510	138 1,510 Petition to institute a public use proceeding	0.00																																																																																																																																										
140	110	240 55 Petition to revive - unavoidable	0.00																																																																																																																																										
141	1,210	241 805 Petition to revive - unintentional	0.00																																																																																																																																										
142	1,210	242 805 Utility issue fee (or reissue)																																																																																																																																											
143	430	243 215 Design issue fee																																																																																																																																											
144	580	244 290 Plant issue fee																																																																																																																																											
122	130	122 130 Petitions to the Commissioner	0.00																																																																																																																																										
123	50	123 50 Petitions related to provisional applications																																																																																																																																											
126	240	126 240 Submission of Information Disclosure Stmt	0.00																																																																																																																																										
581	40	581 40 Recording each patent assignment per property (times number of properties)	0.00																																																																																																																																										
146	690	248 345 Filing a submission after final rejection (37 CFR § 1.129(a))	0.00																																																																																																																																										
149	690	249 345 For each additional invention to be examined (37 CFR § 1.129(b))	0.00																																																																																																																																										
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SUBMITTED BY		Complete if applicable		
Name (Print/Type)	Rolando J. Tong	Registration No. (Attorney/Agent)	47,140	Telephone 775-826-6160
Signature			Date	8/13/02

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